

From: Alan B. Heirich
To: Microsoft ATR
Date: 1/23/02 10:55am
Subject: Microsoft settlement

Dear Department of Justice,

I am writing to you under the Tunney act to express my concerns about the proposed settlement of the Microsoft Antitrust case. As a software engineer with 20 years experience, PhD trained computer scientist, and senior architect for a major computer manufacturer, I have first-hand experience with Microsoft executives and the business practices that govern the PC and enterprise computing industries. It is my opinion that the proposed settlement will have no effect on Microsoft conduct and will lead to a continuation of the status quo monopoly in the market for desktop operating systems and applications. This belief is based on several observations:

1. Microsoft is deceitful - in the past Microsoft has shown its willingness to evade governmental restrictions. Any proposed settlement should acknowledge that the company behaves in ways that fail to meet high ethical standards, and remedies should be designed in anticipation of attempts at evasion.
2. Linux faces unreasonable barriers to entry - I am writing this note as a private citizen and am not speaking for my employer, a major computer vendor. My experience in developing products for the industry has taught me that at the present time it is impossible to ship computers containing Linux without paying Microsoft for a Windows license. This is not explicitly due to retaliation, but instead is a result of the status quo of installing Windows on every computer to be shipped. The cost for labor to remove Windows and replace it with Linux is higher than the cost of a Windows license. Since Linux is a free operating systems users do not expect to pay for it, and in particular do not expect to pay for the cost of a Windows license plus the cost of the labor to install Linux. As a result Linux faces a de facto barrier to entry in desktop and server markets that is not addressed by the proposed antitrust settlement. This barrier is a result of the monopolistic practices that the courts have held to be in violation of antitrust provisions. As a result I feel the settlement should explicitly address this barrier.
3. The proposed settlement does not adequately require Microsoft to disclose APIs, and gives the company too much latitude in defining what it will disclose. In light of the past history of evasion by this company this can only be described as a loophole big enough to drive a truck through, and we should assume that Microsoft will exploit this loophole in ways that are inconsistent with the spirit of the

settlement.

4. The settlement focusses on too narrow a range of products, specifically recent and current products, and fails to account for future products that are intellectual derivatives of current products. In software all that is necessary to create a "new" product is to develop a new source code base. This source code base may simply be a rewrite of an existing product, and this is in fact the case with the ongoing evolution of the Windows operating system. Microsoft can circumvent many of the important restrictions in the course of their normal practice of upgrading their products. I feel the settlement should be written to cover all present and future Microsoft operationg systems.

Thank you. I hope that the department of justice will understand the importance of a competition in the computer industry, and will take effective steps to permanently change the behavior of this convicted monopolist.